

**DEPARTMENT OF EDUCATION  
SPECIAL EDUCATION PROGRAMS**

**South Dakota Human Services Center**

**Accountability Review - Focus Monitoring Report 2007-2008**

**Team Members:** Linda Shirley, Deb Zebill, and Mary Borgman Education Specialists; Bev Petersen, Transition Liaison.

**Dates of On Site Visit:** April 9, 2008

**Date of Report:** April 23, 2008

3 month update due: July 23, 2008

6 month update due: October 23, 2008

9 month update due: January 23, 2009

3 month update received:

6 month update received:

9 month update received:

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**Program monitoring and evaluation.**

In conjunction with its general supervisory responsibility under the Individuals with Disabilities Education Act, Part B, Special Education Programs (SEP) of the Office of Educational Services and Support shall monitor agencies, institutions, and organizations responsible for carrying out special education programs in the state, including any obligations imposed on those agencies, institutions, and organizations. The department shall ensure:

(1) That the requirements of this article are carried out;

(2) That each educational program for children with disabilities administered within the state, including each program administered by any other state or local agency, but not including elementary schools and secondary schools for Indian children operated or funded by the Secretary of the Interior:

(a) Is under the general supervision of the persons responsible for educational programs for children with disabilities in the department; and

(b) Meets the educational standards of the state education agency, including the requirements of this article; and

(3) In carrying out this article with respect to homeless children, the requirements of the McKinney-Vento Homeless Assistance Act, as amended to January 1, 2007, are met. (Reference- ARSD 24:05:20:18.)

**State monitoring--Quantifiable indicators and priority areas.**

The department shall monitor school districts using quantifiable indicators in each of the following priority areas, and using such qualitative indicators as are needed to adequately measure performance in those areas:

(1) Provision of Free Appropriate Public Education (FAPE) in the least restrictive environment;

(2) Department exercise of general supervision, including child find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services as defined in this article and article 24:14; and

(3) Disproportionate representation of racial and ethnic groups in special education and related services, to the extent the representation is the result of inappropriate identification. (Reference-ARSD 24:05:20:18:02.)

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**State enforcement -- Determinations.**

On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA...

Based upon the information obtained through monitoring visits, and any other public information made available, Special Education Programs of the Office of Educational Services and Support determines if the agency, institution, or organization responsible for carrying out special education programs in the state:

- Meets the requirements and purposes of Part B of the Act;
- Needs assistance in implementing the requirements of Part B of the Act'
- Needs intervention in implementing the requirements of Part B of the Act; or
- Needs substantial intervention in implementing the requirements of Part B of the Act. (Reference- ARSD 24:05:20:23.04.)

#### **Deficiency correction procedures.**

The department shall require local education agencies to correct deficiencies in program operations that are identified through monitoring as soon as possible, but not later than one year from written identification of the deficiency. The department shall order agencies to take corrective actions and to submit a plan for achieving and documenting full compliance. (Reference-ARAD 24:05:20:20.)

### **1. FAPE in the LRE – Performance Indicator**

**State Performance Plan - Indicator 3:** Participation and performance of children with disabilities on statewide assessments.

1. Percent of districts meeting State's AYP objectives for progress for disability subgroup.
2. Participation rate for children with IEPs in a regular assessment with not accommodations; regular assessment with accommodations; alternate assessment against grade level standards; alternate assessment against alternate achievement standards.
3. Proficiency rate for children with IEPs against grade level standards and alternate achievement standards.

**Annual Performance Report Activity –** Conduct an accommodation study to verify IEP teams are providing instructional accommodations if they are also providing those accommodation on statewide assessments.

#### **Finding:**

Through a review of 5 student files, data gathered by the review team indicated the following:

1. The accommodations/modifications were appropriated for the skill areas affected by the disability in 5 of the 5 files reviewed.
2. The accommodations/modification provided for State/District wide assessments were provided in the student's instructional program in 3 of the 5 files reviewed.
3. The accommodations identified in the IEPs for State/District wide assessment were used during the assessment administration in 3 of 5 files reviewed.

#### **Corrective Action:**

<b>Corrective Action:</b> Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	<b>Timeline for Completion</b>	<b>Person(s) Responsible</b>	<b>(SEP Use Only) Date Met</b>
<b>Activity/Procedure:</b> 1. The district will review current policy/procedure to determine why discrepancies are occurring.  2. Develop a process that will allow for the appropriate documentation and provision of accommodations for state/district assessments.  3. Train IEP staff and testing coordinator in the procedures/process.	Activity # 1&2 Within 1 week of receiving report	Human Services Administration & Staff	

<p>4. Implement procedures and collect data to verify accommodation are appropriately documented and provided during state/district assessments.</p> <p>5. Analyze data collected to determine if procedures corrected discrepancy. Repeat steps 1 through 5 if discrepancies continue.</p> <p><b>Progress Report data to be submitted to SEP:</b></p> <ol style="list-style-type: none"> <li>1. Written description of the districts review process to identify why the discrepancies are occurring.</li> <li>2. Written description of the process the district will implement to correct the discrepancies.</li> <li>3. Training documentation to include the date staff training occurred, name of individual who provided the training and sign-in sheet with the name of all participants/position titles, who attended the training.</li> </ol>	<p>Activity #3 By July 1<sup>st</sup> 2008</p> <p>Activity #4 By 6 month progress report due date.</p> <p>Activity #5 By 6 month progress report due date.</p>		
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**3 month Progress Report:**

**6 month Progress Report:**

**9 month Progress Report:**

## **1. GENERAL SUPERVISION**

**24:05:25:06. Reevaluations.** Reevaluations shall be conducted at least every three years or if conditions warrant or if the child's parent or teacher requests an evaluation. Reevaluations must be completed within 25 school days after receipt by the district of signed consent to reevaluate unless other time limits are agreed to by the school administration and the parents. Each school district shall follow the procedures under § 24:05:25:04.02 when reevaluating a student for the additional purposes of:

(1) Determining whether the child continues to have a disability;

(2) Determining whether the child continues to need special education and related services; and

(3) Determining whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP and to participate, as appropriate, in the general curriculum.

If no additional data are needed to determine continuing eligibility, the district shall notify the parents of that determination and reasons for it and of the right of the parent to request an assessment, for purposes of services under this article, to determine continuing eligibility. The school district is not required to conduct an assessment unless requested to do so by the child's parents. However, a school district shall follow the procedures in this chapter before determining that the child is no longer a child with a disability. The evaluation procedures described in this chapter are not required before the termination of a child's eligibility under this article due to graduation with a regular high school diploma, or exceeding the age eligibility for FAPE.

### **Findings:**

1. Through file reviews the team identified one student whose reevaluation was due on 2-24-07 and the meeting was held on 2-15-08.

<b>Corrective Action:</b> Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	<b>Timeline for Completion</b>	<b>Person(s) Responsible</b>	<b>(SEP Use Only) Date Met</b>
<b>Activity/Procedure:</b> Human Services will have a process in place for meeting timelines for evaluation reports, determination of eligibility and conducting an IEP team meeting.  <b>Data Collection:</b> The district will submit to SEP the process for ensuring all timelines are met for every student.	March 08 and ongoing	Human Services	

**3 month Progress Report:**

**6 month Progress Report:**

**9 month Progress Report:**

<b>Corrective Action:</b> Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	<b>Timeline for Completion</b>	<b>Person(s) Responsible</b>	<b>(SEP Use Only) Date Met</b>
<b>Activity/Procedure:</b> Human Services will reevaluate all students when their 3 year reevaluations are due according to the timelines. <b>Data Collection:</b> Human Services will report to the Special Education Program the number of students having reevaluations and the number that met the timelines for each reporting period.	May 1 <sup>st</sup> , 2008 ongoing	Human Services	

**3 month Progress Report:**

**6 month Progress Report:**

**9 month Progress Report:**

## **2. GENERAL SUPERVISION**

**ARSD 24:05:27:08. Yearly review and revision of individual educational programs.**  
Each school district shall initiate and conduct IEP team meetings to periodically review each

child's individual educational program and, if appropriate, revise its provisions. An IEP team meeting must be held for this purpose annually. The review shall be conducted to determine whether the annual goals for the student are being achieved. The individualized education program shall be revised, as appropriate, to address: any lack of expected progress toward the annual goals and in the general curriculum, if appropriate; the results of any reevaluation conducted; information about the student provided to, or by, the parents; the student's anticipated needs; or other matters.

**Findings:**

Two students did not meet the annual yearly review of their individual educational program. One student had an annual date of 2-2-07 and the IEP was held on 3-6-08. The other student had an annual IEP due on 8-23-07 and the meeting was held on 9-4-07.

<b>Corrective Action:</b> Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	<b>Timeline for Completion</b>	<b>Person(s) Responsible</b>	<b>(SEP Use Only) Date Met</b>
<b>Activity/Procedure:</b> Human Services will chart each student new and those residing in the facility for a master list of when their annual IEPs are due. <b>Data Collection:</b> Human Services will report to the Special Education Program the number of students having IEPs and the number that met the timelines for each reporting period.	May 1 <sup>st</sup> , 2008 ongoing	Human Services	

**3 month Progress Report:**

**6 month Progress Report:**

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**3. GENERAL SUPERVISION**

**24:05:27:01.03. Content of individualized education program.** Each student's individualized education program shall include:

(1) A statement of the student's present levels of academic achievement and functional performance, including:

(a) How the student's disability affects the student's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled students); or

(b) For preschool student, as appropriate, how the disability affects the student's participation in appropriate activities;

(2) A statement of measurable annual goals, including academic and functional goals, designed to:

(a) Meet the student's needs that result from the student's disability to enable the student to be involved in and progress in the general education curriculum; and

(b) Meet each of the student's other educational needs that result from the student's disability;

For students with disabilities who take alternate assessments aligned to alternate achievement standards, each student's IEP shall provide a description of benchmarks or short-term objectives;

(3) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided for the student:

- (a) To advance appropriately toward attaining the annual goals;
- (b) To be involved and progress in the general education curriculum in accordance with this section and to participate in extracurricular and other nonacademic activities; and
- (c) To be educated and participate with other students with disabilities and nondisabled students in the activities described in this section;

(4) An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in activities described in this section;

(5) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments consistent with § 24:05:14:14. If the IEP team determines that the student shall take an alternate assessment instead of a particular regular state or district-wide assessment of student achievement, a statement of why:

- (a) The student cannot participate in the regular assessment; and
- (b) The particular alternate assessment selected is appropriate for the student;

(6) The projected date for the beginning of the services and modification described in this section and the anticipated frequency, location, and duration of those services and modifications;

(7) A description of how the student's progress toward the annual goals described in this section will be measured and when periodic reports on the progress the student is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(8) Beginning not later than the first IEP to be in effect when the student turns 16, or younger if determined appropriate by the IEP team, and updated annually thereafter, the IEP shall include:

(a) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, if appropriate, independent living skills; and

(b) The transition services (including courses of study) needed to assist the student in reaching those goals; and

(9) Beginning not later than one year before a student reaches the age of majority under state law, the student's individualized education program must include a statement that the student has been informed of his or her rights under Part B of the Individuals with

Disabilities Education Act, if any, that will transfer to the student on reaching the age of majority consistent with § 24:05:30:16.01.

**24:05:27:01.02. Development, review, and revision of individualized education program.** In developing, reviewing, and revising each student's individualized education program, the team shall consider the strengths of the student and the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, the academic, developmental, and functional needs of the student. The individualized education program team also shall:

(1) In the case of a student whose behavior impedes his or her learning or that of others, consider the use of positive behavioral interventions and supports and other strategies to address that behavior;

(2) In the case of a student with limited English proficiency, consider the language needs of the student as these needs relate to the student's individualized education program;

(3) In the case of a student who is blind or visually impaired, provide for instruction in Braille and the use of Braille unless the team determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student;

(4) Consider the communication needs of the student and, in the case of a student who is deaf or hard of hearing, consider the student's language and communication needs, opportunities for direct communications with peers and professional personnel in the student's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the student's language and communication mode; and

(5) Consider whether the student requires assistive technology devices and services.

The regular education teacher of a student with a disability, as a member of the individualized education program team, must, to the extent appropriate, participate in the development, review, and revision of the student's individualized education program, including the determination of appropriate positive behavioral interventions and supports and other strategies for the student and the determination of supplementary aids and services, program modifications, and supports for school personnel that will be provided for the student consistent with subdivision 24:05:27:01.03(3).

Nothing in this section requires the team to include information under one component of a student's individualized education program that is already contained under another component of the student's individualized education program. No additional information may be required to be included in a student's IEP beyond what is explicitly required in this section.

#### **Finding:**

Through a review of student records the team identified students present levels of academic achievement and functional performance (PLAAFPs) do not consistently include skill specific information to develop an IEP. The PLAAFPs do not consistently how the disability affects involvement in the regular education classroom. Annual goals do not consistently specify skills the student can accomplish within a 12 month period. They do not always include criteria, condition and performance.

For example:

1. \_\_\_\_ will complete at least 3 assignments per day with a passing grade of 70% or above. He will do this with 80% accuracy over 9 consecutive weeks.
2. When faced with situations that cause \_\_\_\_ extreme anxiety or anger \_\_\_\_ will use appropriate and positive coping skills to deal with the situation within reasonable time frame in an age appropriate manner, and move on from the situation to successfully complete designated school time. In order to achieve this goal, \_\_\_\_ will not have more than 5 total unexcused school sessions per nine weeks.
3. \_\_\_\_ Will maintain emotional stability during GED lessons in order to focus on gaining the academic skills necessary to pass the 5 GED pre-tests by 9-20-08.

Accommodations for all students are the same. They are not individualized to meet the need of each student.

The statement reads as follows:

"The following accommodations to all students enrolled in the SDHSC Alternative School: small group instruction, note-taking assistance, daily assignment sheets, preferential seating, frequent breaks, concrete/positive reinforcers, alternative setting and extended time for test completion."

On the "consideration of special factors" section under the heading of "Does student's general classroom behaviors/impede learning?" The statements are the same for all students with behavior concerns so they are not individualized.

<b>Corrective Action:</b> Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	<b>Timeline for Completion</b>	<b>Person(s) Responsible</b>	(SEP Use Only) Date Met
<b>Activity/Procedure:</b> The district will review all new IEP files to ensure the required content is included, including present levels of performance, goals, Special factors and accommodations individualized for each student. <b>Data Collection:</b> A copy of IEPs will be sent to SEP for verification of content.	May 1 and ongoing	Human Services	

**3 month Progress Report:**

**6 month Progress Report:**

**9 month Progress Report:**

#### **4. GENERAL SUPERVISION**

**24:05:27:13.02. Transition services.** Transition services are a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based on the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, related services, community experiences, the development of employment and other post school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

**Finding:**



Through a review of student files for transition postsecondary goals were not measurable.

<b>Corrective Action:</b> Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	<b>Timeline for Completion</b>	<b>Person(s) Responsible</b>	<b>(SEP Use Only) Date Met</b>
<b>Activity/Procedure:</b> All IEPs written for students of transition age will have measurable post secondary goals, and reflect a coordinated set of activities. <b>Data Collection:</b> Human Services will submit to SEP copies of IEPs of students requiring transition. The files will be checked for content.	May 1, 2008 and Ongoing	Human Services	

**3 month Progress Report:**

**6 month Progress Report:**

**9 month Progress Report:**

## **5. GENERAL SUPERVISION**

**24:05:28:02. Continuum of alternative placements.** Alternative placements which must be made available include the following:

- (1) Regular educational programs with modification;
- (2) Resource rooms;
- (3) Self-contained programs;
- (4) Separate day school programs;
- (5) Residential school programs;
- (6) Home and hospital programs; and
- (7) Other settings.

For each of the programs listed in this section, the IEP team shall determine the extent to which related services are required in order for the child to benefit from the program. The length of the school day must be equal in duration to that of a regular public school day unless an adjusted school day is required to meet the individual needs of the child. The IEP team shall provide for supplementary services, such as resource room or itinerant instruction, to be provided in conjunction with regular class placement, as applicable.

In those cases where placement is made in a separate day school program or residential school program, the district may abide by the school term of the facility in which the child is placed based on the individual needs of the child.

**Findings:** The team concluded Human Services places all of their students in the resource room on the continuum of alternative placements. All justification statements therefore were not correct.

<b>Corrective Action:</b> Document the specific activities	<b>Timeline for</b>	<b>Person(s)</b>	<b>(SEP Use</b>
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and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Completion	Responsible	Only) Date Met
<b>Activity/Procedure:</b> Human Services will address the continuum of alternative placement, special education and related services to be provided, participation with non-disabled peers, program options, and justification for placement and possible harmful effects of the proposed plan for all students. <b>Data Collection:</b> A copy of each IEP will be sent to Special Education Programs.	May 1 <sup>st</sup> , 2008 ongoing	Human Services	

**3 month Progress Report:**

**6 month Progress Report:**

**9 month Progress Report:**

<b>Corrective Action:</b> Document the specific activities and procedures that will be implemented and the data/criteria that will be used to verify compliance.	Timeline for Completion	Person(s) Responsible	(SEP Use Only) Date Met
<b>Activity/Procedure:</b> A state training will be provided to special education staff on all areas of timelines, IEP development, and transition. <b>Data Collection:</b> The district will submit a copy of the training agenda, date of training, presenter(s) and a list of persons attending.	July1	State	

**3 month Progress Report:**

**6 month Progress Report:**

**9 month Progress Report:**